

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 5234 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO  
No
  2. To be referred to the Reporter or not? No :
  3. Whether Their Lordships wish to see the fair copy of the judgement? : NO  
No
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO  
No
  5. Whether it is to be circulated to the Civil Judge? No :

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VIJALPORE MUNICIPALITY

Versus

ASHOKBHAI UKABHAI SONVANE  
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Appearance:

MR ZUBIN F BHARDA for Petitioner  
MR SUNIL C PATEL for Respondent No. 2, 3  
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CORAM : MR.JUSTICE D.C.SRIVASTAVA

Date of decision: 22/03/2000

ORAL JUDGEMENT

1. Heard Shri Jubin Bharda for the appellant and Shri Sunil C. Patel for the respondents No.2 & 3.

2. This Appeal can be finally disposed of at the

admission stage. Learned Counsel for the parties have been heard. This Appeal has been directed against the order of Motor Accident Claims Tribunal, Valsad at Navsari granting interim Award under Sec. 140 of the Motor Vehicles Act by directing the appellant to pay interim compensation of Rs.50,000/- together with interest at the rate of 12 % p.a. from the date of claim petition.

3. It is admitted by the learned Counsel for the appellant that no reply or written statement was filed to the petition u/s. 140 of the Motor Vehicles Act. It is also admitted position that the application u/s.166 of the Motor Vehicles Act is pending and there too no written statement has been filed by the appellant. Learned Counsel for the appellant, however, contends that since the appellant had paid premium to the Insurance Agent through cheque well within time, hence the liability, if any, to pay interim compensation is upon insurer and not upon the owner of the vehicle. The factual position is not in dispute. The Tribunal found that the Jeep Car No.GJ-15-G-235 was involved in the accident. It was being driven by the respondent No.1. The vehicle is owned by the appellant. No insurance policy or insurance cover was filed by the appellant before the Tribunal. The death of the victim is also established. The injury was caused from the aforesaid jeep. The Tribunal further found that the conditions prescribed u/s.140 of the Motor Vehicles Act are fulfilled. It was a case of no fault liability, since the respondent did not know that the vehicle was insured with the appellant they could not implead the appellant either in the main petition u/s. 166 or in the application u/s. 140 of the Act. On these facts the Tribunal was justified in rendering the impugned Award which does not suffer from any illegality. The Appeal has, therefore, no merit and is liable to be dismissed summarily.

4. Learned Counsel for the appellant, however, prays that he may be permitted to file written statement in the main petition taking relevant pleas so that the interest of the appellant may be safe-guarded and the respondent may be able to implead the insurer. Liberty prayed for in this behalf is granted. If any Application is moved for impleadment of the Insurance Co. and for permission to file written statement by the appellant, the same shall be considered by the Tribunal in accordance with law. No order as to costs. A sum of Rs.25,000/- deposited by the appellant in this Court may be paid to the respondents No.2 & 3.

sd/-

Date : March 22, 2000 ( D. C. Srivastava, J. )

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